

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
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Access Charge Reform For Incumbent Local)
Exchange Carriers Subject to Rate-of-Return)
Regulation)
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CC Docket No. 98-77

REPLY COMMENTS OF THE
UNITED STATES TELEPHONE ASSOCIATION

Its Attorneys

Lawrence E. Sarjeant
Linda Kent
Keith Townsend
John Hunter

U.S. Telephone Association
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005
(202) 326-7371

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SUMMARY

Consistent with USTA's initial comments, the record in this proceeding sends a clear message to the Commission: to defer any permanent alterations to the access charge structure of the rate-of-return LECs until resolution of the important universal service issues that directly affect rate-of-return LECs, including the Commission's examination of the high cost fund. Because a reasonable schedule already is in place for examining the high cost support system for rural LECs, all of which are subject to rate-of-return regulation, permanent alterations to the access charge structure for rate-of-return LECs should not occur until after any changes to that system are complete.

If the Commission nonetheless decides to proceed, any interim changes to the access structure of the rate-of-return LECs should be based on the access reform plan that USTA presented in its comments. As part of that plan, the Commission should adopt pricing flexibility and improved forms of regulation that will permit rate-of-return LECs to compete efficiently pursuant to the Telecommunications Act of 1996 (the "1996 Act").

These regulatory reforms would properly implement the important universal service and competition goals of the 1996 Act in light of the conditions faced by the rate-of-return LECs. These conditions differ greatly from those of the price cap LECs. For example, rate-of-return LECs generally depend more heavily on a few business customers, and have smaller customer bases, than price cap LECs. As importantly, rate-of-return LECs' common line costs often are substantially higher than those of price cap LECs.

Under USTA's plan, subscriber line charges and presubscribed interexchange carrier charges would be based on nationwide averages for price cap LECs. USTA's plan would remove the primary/non-primary residential line distinction now imposed on the access

charge structure of price cap LECs, while not immediately eliminating the per-minute carrier common line charge.

The record confirms that only limited changes should be made in the local switching category. Moreover, the Commission should retain a per-minute Transport Interconnection Charge while limiting changes to the other transport elements. Other changes to the access charge rules should not be made unless they are tailored to the environment in which rate-of-return LECs operate and improve these LECs' ability to respond to competition under the 1996 Act.

The Commission should not impose on rate-of-return LECs the access charge structure that now applies to price cap LECs. That type of "one size fits all" regulation is contrary to the principles of universal service and economic efficiency. Similarly, the Commission should reject AT&T's harmful proposals to represcribe the authorized rate of return or to otherwise "peg" the traffic-sensitive rates of rate-of-return LECs to those of price cap LECs. AT&T's proposals are outside the scope of this proceeding and are unsound on policy grounds. In narrowly seeking to decrease its own access costs, AT&T disregards universal service principles. AT&T is openly hostile to nationwide averaging of long-distance rates -- a tenet of U.S. universal service that is reflected in sections 254(b)(3) and 254(g) of the Communications Act. Notably, AT&T provides no indication that any cost savings it realizes would be reflected in lower rates for its subscribers.

By deferring permanent changes to the access charge structure of rate-of-return LECs while adopting greater pricing flexibility and improved regulation consistent with the 1996 Act, the Commission would go far toward satisfying the intent of that Act with respect to the areas served by rate-of-return LECs.

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**REPLY COMMENTS OF THE
UNITED STATES TELEPHONE ASSOCIATION**

I. INTRODUCTION

The United States Telephone Association ("USTA") believes that the comments filed in this proceeding^{1/} send a clear message to the Commission: to defer any permanent alterations to the access charge structure of the rate-of-return local exchange carriers ("LECs") until resolution of the important universal service issues that directly affect rate-of-return LECs, including its examination of the high cost fund.^{2/} The Commission should

^{1/} See Notice of Proposed Rulemaking, FCC 98-101 (rel. June 4, 1998) (the "Notice"). USTA filed comments on the Notice on August 17, 1998.

^{2/} See, e.g., comments of MCI Telecommunications Corporation ("MCI") at 7-9 (stating that access reform for rate-of-return LECs should be deferred until universal service reform is complete). Unless otherwise noted, all references in this reply to a party's comments are to comments filed in CC Docket No. 98-77 on or about August 17, 1998.

maintain its reasonable schedule for addressing universal service issues for rural LECs, all of which are rate-of-return LECs.^{3/} Permanent alterations to the access charge structure for rate-of-return LECs should not occur until after completion of any changes to universal service support for rural LECs.^{4/}

However, if the Commission decides to proceed, interim changes to the access structure should be based on the access reform plan presented in USTA's initial comments.^{5/} In addition, the Commission should move to adopt pricing flexibility and improved forms of regulation that will permit rate-of-return LECs to compete efficiently in the new environment created by the Telecommunications Act of 1996 (the "1996 Act").

Such regulatory reforms would properly match the important universal service and competition goals of the 1996 Act to the conditions faced by the rate-of-return LECs. As the record also shows, these conditions are far different from those of the price cap LECs. Among other things, rate-of-return LECs' common line costs often are substantially higher than those of price cap LECs. Similarly, rate-of-return LECs generally have smaller customer bases, and depend more heavily on a few business customers, than price cap LECs.^{6/} Because of the economic characteristics of the areas served by rate-of-return

^{3/} Any changes in existing universal service support for rural LECs will not take place until after further Commission review, "but in no event starting sooner than January 1, 2001." See *Federal-State Joint Board on Universal Service*, First Report and Order, 12 FCC Rcd 8776 (1997) ("Universal Service Order") at ¶ 204.

^{4/} Cf. Letter from Cynthia Cox, BellSouth, to Magalie Roman Salas, Secretary, FCC, re *ex parte* presentation in CC Docket No. 96-45 (filed Sept. 16, 1998) (describing proposal for federal universal service support for non-rural LECs).

^{5/} See comments of USTA at 7-29.

^{6/} See, e.g., comments of ALLTEL Communications Service Corporation ("ALLTEL") at 3-5; TDS Telecommunications Corporation ("TDS Telecom") at 1-2, 8; Harris, Skrivan & (continued...)

LECs, competition sometimes may not develop as rapidly in these areas as in the more urban parts of the United States.

As a result, the Commission should not impose on rate-of-return LECs the access charge structure that now applies to price cap LECs. Such a "one size fits all" approach to regulation is contrary to the principles of universal service and economic efficiency. Nor should the Commission adopt AT&T's harmful proposals to represcribe the authorized rate of return or to otherwise "peg" the traffic-sensitive rates of rate-of-return LECs to those of price cap LECs.^{7/} AT&T's proposals are outside the scope of this proceeding and are unsound on policy grounds. AT&T disregards universal service goals in narrowly seeking to decrease its own access costs. Indeed, AT&T openly states its hostility to nationwide averaging of long-distance rates^{8/} -- a longstanding basis of U.S. universal service that is reflected in section 254(b)(3) and 254(g) of the Communications Act.^{9/} Of course,

^{6/}(...continued)

Associates, LLC ("HSA") at 2; Organization for the Protection and Advancement of Small Telephone Companies ("OPASTCO") at 2-3; ICORE, Inc. ("ICORE") at 1-2; Lexcom Telephone Company ("Lexcom") at 6-9.

^{7/} See comments of AT&T at 4-5.

^{8/} See *id.* at 9.

^{9/} See 47 U.S.C. § 254(b)(3) (stating that throughout the United States, telecommunications and information services, including interexchange service, should be available at rates reasonably comparable to rates charged for similar services in urban areas); *id.* § 254(g) (requiring the Commission to adopt rules to require that the rates for interexchange services in rural and high cost areas be no higher than the rates charged in urban areas, and that such rates in each state be no higher than rates charged in any other state).

consistent with its other recent actions, AT&T provides no indication that any cost savings to it would be reflected in lower rates for its subscribers.^{10/}

By deferring permanent changes to the access charge structure of rate-of-return LECs while adopting greater pricing flexibility and improved regulation consistent with the 1996 Act, the Commission would go far toward satisfying the intent of that Act with respect to the lightly-populated rural and suburban areas that rate-of-return LECs predominantly serve.

II. THE RECORD DEMONSTRATES THAT PERMANENT CHANGES TO THE ACCESS CHARGE STRUCTURE FOR RATE-OF-RETURN LECs MUST FOLLOW THE UNIVERSAL SERVICE PROCEEDINGS

USTA agrees with the numerous commenters that urge the Commission to defer permanent changes in the access charge rules.^{11/} Many such commenters note that because of the interrelationship between access charges and universal service support for rural LECs, all of which are rate-of-return LECs, the Commission should refrain from taking permanent action in this proceeding until changes to universal service have been implemented.^{12/} This is especially important because of the potential effect of changes, if any, to the high cost

^{10/} See Caroline E. Mayer, *AT&T Sets \$3 Monthly Usage Fee; Low-Volume, New Customers to Pay*, Wash. Post, Aug. 15, 1998, at A1; *AT&T Sets Minimum of \$3 For Monthly Long Distance*, Wall St. J., Aug. 17, 1998, at B5; *AT&T \$3 Monthly Minimum Fuels Debate On LEC Long Distance Entry*, Comm. Daily, Aug. 17, 1998.

^{11/} See, e.g., comments of MCI at 3-4, 7-9; TDS Telecom at 2-8; National Rural Telecom Association and the National Telephone Cooperative Association ("NRTA/NTCA") at 2-4; National Exchange Carrier Association ("NECA") at 1-4; Minnesota Independent Coalition at 2, 4-5; Virgin Islands Telephone Corporation ("Vitelco") at 7-9; John Staurulrakis, Inc. ("JSI") at 2, 16-17; Telephone Association of New England at 3-4; Fred Williamson & Associates ("FW&A") at 4; Lexcom at 30; USTA at 1-2, 4-5.

^{12/} See, e.g., comments of MCI at 7-9; TDS Telecom at 3-8; NRTA/NTCA at 3-4; USTA at 4-5; Vitelco at 7-9.

fund on the operations of rural LECs. Universal service issues are not close to resolution, as evidenced by the Commission's recent postponement of the date on which universal service support for non-rural rate-of-return LECs is to be based on forward-looking costs.^{13/}

Deferral of permanent action in this docket until after the implementation of any changes to high cost support is more than justified. As the courts have recognized, universal service concerns are valid justifications for Commission decisions.^{14/}

USTA also agrees with MCI's general point that the Commission should not divert its limited resources to reform the access structure of rate-of-reform LECs at this time.^{15/}

MCI properly cautions the Commission against embarking on a rulemaking

that could require over a thousand small independent ILECs to provide annual cost studies, that could require small carriers to increase investment to ensure that reform policies are implemented as ordered, and that ultimately would impact less than ten percent of interstate access lines.^{16/}

As rate-of-return LECs note, access charge restructuring for the price cap LECs has produced complaints and public perceptions that local telephone bills have increased, without offsetting decreases in long distance charges or increased local competition.^{17/} The

^{13/} See *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order and Order on Reconsideration, FCC 98-160 (rel. Jul. 17, 1998) (postponing such date to July 1, 1999).

^{14/} See *Southwestern Bell Telephone Company v. FCC*, No. 97-2618, slip op. at 31 (8th Cir. Aug. 19, 1998) ("*Southwestern Bell*"), citing *Competitive Telecom. Ass'n v. FCC*, 117 F.3d 1068, 1074 (8th Cir. 1997); *Rural Tel. Coalition v. FCC*, 838 F.2d 1307, 1315 (D.C. Cir. 1988); *National Ass'n of Reg. Util. Comm'rs v. FCC*, 737 F.2d 1095, 1108 (D.C. Cir. 1984), cert. denied 469 U.S. 1227 (1985).

^{15/} See comments of MCI at 3.

^{16/} *Id.* at 3-4.

^{17/} See comments of Western Alliance at 2-3.

Commission should resolve these problems before imposing similar changes on smaller rate-of-return LECs. In this regard, although MCI argues for the Commission to defer action in this docket until it "revisits" issues related to the access charges of price cap LECs,^{18/} the Commission should not adopt MCI's specific suggestions on those issues for either price cap LECs or rate-of-return LECs.

In particular, the Commission should reject MCI's recommendation that LECs' access charges should be set at "forward-looking economic cost."^{19/} The access charges of rate-of-return LECs are designed to recover the actual costs that these LECs bear in building, operating, and maintaining the extensive and expensive networks used to provide interstate access service throughout their service territories. As a practical matter, imposition of this rule could cause investment in rural LECs' networks to decrease significantly. If such a requirement were ever imposed on rate-of-return LECs, it is highly unlikely that such LECs could recover their costs of doing business, resulting in unconstitutional confiscation.^{20/}

Other important proceedings are pending that require resolution prior to permanent changes to the access charge structure for rate-of-return LECs. Commenters note that changes to the access structure for rate-of-return LECs should not occur until resolution of the Commission's pending proceedings on separations reform^{21/} and so-called "primary"

^{18/} See comments of MCI at 3-7.

^{19/} See *id.* at 4-7. MCI appears to focus on altering the access charges of price cap LECs, *see id.*, but its pricing scheme should not be adopted for price cap LECs or rate-of-return LECs. See also comments of General Communication, Inc. ("GCI") at 7-8 (wrongly arguing against recovery of costs other than "forward looking costs").

^{20/} See comments of GVNW Inc./Management at 3-4.

^{21/} See, e.g., comments of TDS Telecom at 9; NRTA/NTCA at 3; NECA at 3; *see also Jurisdictional Separations Reform and Referral to the Federal-State Joint Board*, 12 FCC Rcd 22120 (1997).

residential lines.^{22/} In light of these pending proceedings as well, the Commission should defer making such changes in this proceeding. However, if the Commission does make any interim changes, it should adopt USTA's access reform plan as presented in the initial comments.

A. The Common Line Access Charge Structure Must Continue To Be Consistent With The Commission's Universal Service Goals

Contrary to the claims of some commenters,^{23/} structural changes to the access charges of rate-of-return LECs should not be identical to the changes recently adopted for price cap LECs. Because the cost characteristics of rate-of-return LECs are quite different from those of price cap LECs, a different access charge structure is needed to help ensure that costs are recovered fairly and efficiently.^{24/} This is particularly true for common line cost recovery, since the common line costs of rate-of-return LECs are considerably higher than those of price cap LECs.^{25/}

^{22/} See comments of Telephone Association of New England at 3-4, *citing Defining Primary Lines*, CC Docket No. 97-181, Notice of Proposed Rulemaking, FCC 97-316 (rel. Sept. 4, 1997).

^{23/} See, e.g., comments of GCI at 5-6; GSA at 5-7.

^{24/} See, e.g., comments of ALLTEL at 9, ICORE at 1-2; OPASTCO at 2-6.

^{25/} See *id.* at 2; comments of TDS Telecom at 1-2; HSA at 2.

1. If The Commission Makes Interim Changes To The Common Line Structure, The USTA Plan Best Satisfies The Goals Of The Communications Act

Common line cost recovery has a major effect on the affordability of telecommunications service to end users -- a key component of universal service.^{26/} However, some commenters would compromise the Commission's affordability goals by seeking either to raise end user charges abruptly or to reduce the present usage-based carrier common line ("CCL") charge rapidly, which would have the same effect. The Commission should decline to adopt either type of change as an interim measure.

Thus, the Commission should reject the proposals of the General Services Administration ("GSA"), the telecommunications and property administrator for federal agencies including the Commission. GSA questions whether there should be any difference in the caps for subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") between residential and business users.^{27/} As a large institutional user of telecommunications, GSA claims that this issue is "an economic question."^{28/} GSA calls for the Commission to prescribe identical SLCs and PICCs for multi-line business lines and

^{26/} See 47 U.S.C. § 254(b)(1).

^{27/} See comments of GSA at 8 (claiming that there is no cost basis for different monthly access charges for business and residential lines). USTA already has demonstrated that for rate-of-return LECs, distinguishing "non-primary" from "primary" residential lines is unsound policy and is administratively unworkable. See comments of USTA at 12-14.

^{28/} See *id.* at 7.

non-primary residential lines.^{29/} As an example, GSA proposes that SLC ceilings be set at \$7.50 per line at this time for both non-primary residential and multi-line business lines.^{30/}

GSA's proposal would harm universal service by immediately raising the flat-rated charges imposed on residential users with multiple lines above even those for price cap LECs. GSA's proposal flies in the face of the Commission's well-warranted caution about imposing additional flat-rated charges on residential end users.^{31/} In addition, because interexchange carriers ("IXCs") have been quick to impose new, PICC-related charges on residential and other end users, there is a very real danger that residential customers would immediately bear the brunt of GSA's proposed increase in PICCs as well as SLCs.

As USTA and others showed in their initial comments, residential customers of rate-of-return LECs increasingly subscribe to more than one line, for telecommuting and for educational, health, and entertainment purposes. Because the residential customers of many rate-of-return LECs often live relatively long distances from urban centers, telecommunications can help overcome distance limitations on customers' involvement in these activities.^{32/} Immediate imposition of increased SLCs and higher PICCs for these customers' multiple lines would discourage such growth in telecommunications use. Although GSA claims that the residence/business distinction is becoming "arbitrary" as more individuals telecommute and use modems at their homes for business and personal use,^{33/}

^{29/} See *id.* at 10.

^{30/} *Id.* For price cap LECs, SLC ceilings for non-primary residential lines are currently \$5.00 per line.

^{31/} See Universal Service Order ¶¶ 762-764.

^{32/} See comments of USTA at 9; HSA at 3.

^{33/} See comments of GSA at 9.

USTA believes that the answer is not to maintain an artificial distinction between "primary" and "non-primary" residential lines. Rather, the Commission should adopt a common line rate structure that provides incentives to residential users as well as business to maximize the efficient use of telecommunications.

AT&T advocates another type of change that would harm universal service. AT&T seeks rapid reductions in the levels of the rate-of-return LECs' traffic-sensitive ("TS") rate elements, including the CCL charge.^{34/} AT&T presents two alternatives for doing so. First, AT&T would "peg," or link, rate-of-return LECs' CCL charge (and other TS charges) to the nationwide average of the price cap LECs' CCL charge.^{35/} As a second choice, AT&T seeks reductions in the CCL charge based on the proposals in the Notice, except that reductions in the CCL charge would be targeted to originating rates first, then to terminating rates.^{36/} Each of these alternatives would closely tie a reduction of CCL charges of rate-of-return LECs to that of price cap LECs.

Under both of AT&T's alternatives, the rapid elimination of the CCL charge as contemplated for price cap LECs would increase pressures for SLCs and PICCs to recover costs otherwise recovered through the CCL charge. This would have serious consequences for rural development and related universal service policies. As USTA has shown, under an

^{34/} AT&T also seeks a represetation of the authorized rate of return, which, as discussed in section III.A. below, should be rejected as meritless.

^{35/} See comments of AT&T at 7 (proposing to peg "the rate-of-return LECs' restructured traffic-sensitive rates to the nationwide average of the price cap LECs' traffic-sensitive rates"). Under AT&T's proposal, rate-of-return LECs would recover any difference between their "legitimate" revenue requirement (established after a represetation of the authorized rate of return) and their access revenues from the universal service fund. As discussed more generally below, the Commission should reject this proposal.

^{36/} See *id.* at 11.

access charge structure identical to that of the price cap LECs, the SLCs for the multi-line business lines provided by many rate-of-return LECs would be at the \$9.00 ceiling for price cap LECs immediately and would not fully recover common line costs. As noted in the affidavit of Strategic Policy Research Inc. and by others, this could discourage business development in many rural communities served by rate-of-return LECs.^{37/}

Such high SLCs and PICCs also would provide other carriers with entry opportunities due to a regulation-imposed rate structure, not greater efficiencies.^{38/} Contrary to the arguments of both GSA and AT&T, the CCL charge should be retained for rate-of-return LECs until an acceptable way exists to provide sufficient universal service support for these costs without compromising affordability concerns.

In contrast to the proposals of GSA and AT&T, USTA's access reform plan for common line costs properly balances universal service, competition, and efficiency goals. It does so by structuring interim recovery of common line costs through the use of SLCs and PICCs that are similar, but not identical to those for price cap LECs. Although USTA's plan does not immediately eliminate the CCL charge, USTA's initial comments demonstrate that the plan provides a means of reducing the CCL charge that is comparable to the current

^{37/} See Attachment A to comments of USTA, *Access Reform for Rate of Return Local Exchange Carriers: An Opportunity to "Get it Right,"* Affidavit of Margaret L. Rettle, Lisa M. Milofsky, Calvin S. Monson, Kirsten M. Pehrsson, and Jeffrey H. Rohlf, Strategic Policy Research Inc. (the "SPR Affidavit") at 8; *see also* comments of HSA at 3; Lexcom at 13-17.

^{38/} *See* comments of ALLTEL at 3-7; Notice ¶ 37.

price cap access rules.^{39/} In doing so, USTA's plan best addresses the universal service and competitive challenges faced by rate-of-return LECs.^{40/}

Rather than seeking to distinguish between "primary" and "non-primary" residential lines, USTA's plan would apply the same SLC and PICC to all residential lines, single-line business lines, and Basic Rate Interface ("BRI") ISDN lines. SLCs for these lines provided by rate-of-return LECs would not exceed the \$3.50 SLCs for primary residential and single-line business lines provided by price cap LECs.

Under USTA's plan, PICCs for all residential lines, single-line business lines, and BRI ISDN lines of rate-of-return LECs would not exceed the nationwide averages of these rates for primary residential and single-line business lines in effect for price cap LECs in the current year. Similarly, SLCs and PICCs for multi-line business lines and Primary Rate Interface ("PRI") ISDN lines provided by rate-of-return LECs would not exceed the nationwide averages of the rates for these elements in effect for price cap LECs in the current year.

This use of SLCs and PICCs, while not identical to the access structure for price cap LECs, is sufficiently similar to permit the Commission to administer it effectively.^{41/} USTA's recommended treatment of the CCL charge will address the universal service issues

^{39/} See comments of USTA at 17.

^{40/} See comments of USTA at 8-17 (describing the common line aspects of USTA's plan). As discussed in its initial comments, USTA also supports implementation of rate banding in the NECA common line tariff similar to what is now in place in NECA's tariff for local switching services. No change in the Commission's rules is needed to implement these changes.

^{41/} With respect to the PICC, USTA agrees with GSA that there should be a 9:1 line-to-Centrex/PBX trunk equivalency ratio. See comments of USTA at n. 23; GSA at 12.

posed by the proposals of GSA and AT&T. USTA's plan properly addresses the numerous public policy concerns that the Commission must consider for access charge rules.

2. If An Interim Access Structure Is Adopted, SLCs and PICCs Should Be Based On Nationwide Averages For Price Cap LECs

As USTA and others make clear in the initial comments, an interim access structure for rate-of-return LECs should include SLCs and PICCs that are based on the nationwide averages of these charges for price cap LECs.^{42/} Nationwide averages for these flat charges are one means of assuring that universal service goals are being met, particularly the goal of section 254(b)(3) that consumers in all areas of the country have access to services that are reasonably comparable to those provided in urban areas, at reasonably comparable rates.^{43/} Moreover, nationwide averages are reasonably easy for the Commission, NECA, and rate-of-return LECs to calculate and administer. At the same time, they are based on principles similar to those of the nationwide averages used for calculating high-cost support.

Although MCI opposes capping rate-of-return LECs' SLCs for multi-line business lines at the nationwide average for such SLCs of price cap LECs,^{44/} its purpose in doing so apparently is to limit the proportion of rate-of-return LECs' common line costs that are collected through per-minute rates -- that is, the CCL charge. As discussed above, elimination of the CCL charge for rate-of-return LECs should be much more gradual than for

^{42/} See, e.g., comments of USTA at 10-11; FW&A at 8-9; HSA at 6; JSI at 10; Minnesota Independent Coalition at 6-8; Telephone Association of New England at 7-8.

^{43/} See 47 U.S.C. § 254(b)(3).

^{44/} See comments of MCI at 14. MCI also opposes setting these caps at the level of a neighboring price cap LEC's SLC. *Id.*

price cap LECs, especially until an adequate universal service mechanism exists that does not compromise affordability.

3. The Commission Should Not Impose The Primary/Non-Primary Residential Line Distinction On Rate-Of-Return LECs

Commenters support the USTA plan's approach of not distinguishing between "primary" and "non-primary" residential lines for access charge purposes. As USTA explained in its initial comments, such a distinction poses universal service concerns, economic issues, and administrative difficulties for rate-of-return LECs.^{45/} Indeed, it is questionable under sections 202 and 254(b)(3) of the Communications Act whether the Commission has authority to discriminate in the charges for these allegedly different types of residential lines.^{46/}

IXCs and rate-of-return LECs alike recommend against adoption of a primary/non-primary distinction among residential lines.^{47/} MCI highlights the administrative difficulties with the primary/non-primary distinction in the context of implementing PICCs for price cap LECs.^{48/} However, MCI uses the difficulties with the primary/non-primary distinction as a

^{45/} See comments of USTA at 12-14.

^{46/} See comments of TDS Telecom at 13-14.

^{47/} See, e.g., comments of AT&T at n.4 (calling for the Commission to eliminate the distinction between primary and non-primary lines, or at least adopt a workable distinction); OPASTCO at 14-15.

^{48/} See comments of MCI at 14-15. As MCI notes:

[T]he exchange of presubscription information between IXCs and rate-of-return carriers is substantially less automated than the exchange of presubscription information between IXCs and price cap carriers.

(continued...)

pretext to require LECs to increase direct charges on end users rather than PICCs, which apply to IXC.^{49/} Such a proposal raises serious competitive issues and universal service concerns, including the parity of rural and urban rates and affordability for rural users. Rather than taking this retrograde step, the Commission should treat all residential lines identically if it decides to alter the access charge structure of the rate-of-return LECs on an interim basis.

B. The Record Shows That No More Than Limited Changes Should Be Made In The Local Switching Category

As the comments indicate, the Commission should not reassign line side port costs and other switch-related costs to the common line category from the local switching category.^{50/} By increasing common line costs in the common line category, such a change would further burden common line cost recovery mechanisms. As MCI notes:

The Commission should not now expend its resources on reviewing complex ILEC switching cost studies if the only effect would be to transfer recovery from one per-minute local rate element -- local switching -- to a second per-minute rate element -- the CCL.^{51/}

^{48/}(...continued)

Id. at 15. In light of this lack of automation, the Commission should not adopt GCI's blanket proposal to require LECs to inform IXCs of the type of customer served. *See* comments of GCI at 5.

^{49/} *See* comments of AT&T n.4. Moreover, MCI has requested the Commission to require LECs to apply this charge to end users. *See* MCI Emergency Petition for Prescription, CC Docket No. 97-250 (filed Feb. 24, 1998) at 8-9.

^{50/} *See, e.g.,* comments of NRTA/NTCA at 29-30; Western Alliance at 17-18; USTA at 17.

^{51/} Comments of MCI at 17.

In addition, the proposed reassignment could reduce local switching support to small rate-of-return LECs, contrary to the Commission's commitment to maintain the amount of universal service support for rural LECs at existing levels.^{52/}

By proposing the creation of several mandatory charges associated with local switching,^{53/} the Notice would impose significant administrative burdens on rate-of-return LECs without corresponding gains in efficient or equitable cost recovery. USTA recommends that such charges be optional, in order to minimize these burdens while recovering costs as needed.^{54/}

^{52/} See comments of USTA at 17 n. 43; Western Alliance at 18. Both USTA and the Western Alliance have described means by which the Commission can preserve local switching support if it adopts this proposal, which it should not. *See id.*

^{53/} See, e.g., Notice ¶ 55 (proposing the recovery of dedicated trunk port costs through a flat-rated trunk port charge assessed on the purchaser of the dedicated trunk terminating at the port); *id.* (proposing a separate rate element for the recovery of the additional costs of DS1/voice grade multiplexers associated with analog switches that were reassigned from the Transport Interconnection Charge).

^{54/} However, USTA supports the Notice's proposal to permit as an option a separate, monthly, flat-rated user charge for recovering the incremental costs of a line port for ISDN or other services over those for an analog line port. *See* Notice ¶ 56. The flexibility proposed by the Commission will have the effect of improving efficient cost recovery. USTA continues to support a per-minute rate structure for shared local switching facilities of rate-of-return LECs. *See id.* ¶ 58. USTA further supports the proposal to permit, but not require, rate-of-return LECs to establish a call set-up charge on a per-call basis, to be assessed on IXC's. *See id.* ¶ 59. Only signalling costs should be recovered through call set-up charges.

C. The Commission Should Retain A Per-Minute Transport Interconnection Charge While Limiting Changes To The Other Transport Elements

The Commission should not move the Transport Interconnection Charge ("TIC") into the common line pricing structure for rate-of-return LECs, as proposed in the Notice.^{55/} Rather, rate-of-return LECs should continue to recover the residual TIC on a per-minute basis, pending consideration of the separation aspects of this issue by a joint board.^{56/} As USTA noted in its initial comments, there is little economic basis for treating the TIC as part of common line costs, since the TIC substantially reflects the high cost of providing transport services in less densely populated areas.^{57/}

USTA emphasizes again that because of the importance of maintaining universal service, reduction of CCL charges will be a lengthy process, even with the introduction of SLCs and PICCs. If common line rates were the vehicle for recovering the costs associated with the TIC, reducing the CCL charge would be even more time-consuming. Pressures would increase to require end users to pay directly for the residual TIC, contrary to universal service goals of affordability and access. Moreover, moving the residual TIC to the common line category would cause substantial administrative difficulties for LECs that participate in the NECA pools.^{58/}

^{55/} See, e.g., comments of HSA at 7-8.

^{56/} See comments of Lexcom at 20-21.

^{57/} See Notice ¶ 224-225. See also comments of HSA at 7-8; Lexcom at 20.

^{58/} See comments of TDS Telecom at 20. For LECs that belong to the common line pool but not the TS pool, questions arise as to how much of their TICs will be accepted into the common line pool once the TICs of other pooling LECs are transferred to the common line pool. See Notice ¶ 70.

Nor should the Commission adopt AT&T's proposals for eliminating the TIC. Similar to its proposal for the CCL charge, AT&T seeks to "peg" the TIC for rate-of-return LECs to the nationwide average of the price cap LECs' TIC charges.^{59/} Despite AT&T's avowed aim to eliminate the TIC, the situation that rate-of-return LECs face with respect to the TIC is far different from that of price cap LECs, because the cost structures of rate-of-return LECs differ so markedly from those of price cap LECs. Moreover, mechanisms to reduce the residual TIC are available to price cap LECs that do not exist for rate-of-return LECs. The Price Cap Access Order required, among other things, that price cap LECs target their price reductions arising from the price cap formula to reducing the residual TIC until it is eliminated.^{60/} No such reduction factor exists for rate-of-return LECs.

Although the Price Cap Access Order required rate-of-return LECs as well as price cap LECs to reallocate certain costs from the TIC to rates for some facilities-based elements,^{61/} the Commission has acknowledged that rate-of-return LECs would have to create some of these rate elements, and is aware of the expense and difficulties of modifying billing systems.^{62/} In light of these practical difficulties, USTA recommends that allocations to these rate elements be made optional for rate-of-return LECs.

^{59/} See comments of AT&T at 7-8 (proposing to peg "the rate-of-return LECs' restructured traffic-sensitive rates to the nationwide average of the price cap LECs' traffic-sensitive rates") and n.4 (calling for an additional mechanism for phasing out all TIC revenues within the context of AT&T's plan). Under AT&T's plan, and unlike its proposed treatment of the CCL charge, after a transition period, rate-of-return LECs would be unable to recover from universal service funding those revenues associated with the TIC.

^{60/} See Price Cap Access Order ¶¶ 229-240.

^{61/} See *id.* ¶¶ 217-223. The Eighth Circuit upheld this approach in *Southwestern Bell, supra*.

^{62/} See Notice ¶ 215.

While some commenters cite the D.C. Circuit's decision in *Competitive Telecommunications Ass'n v. FCC* as a reason for precipitously reducing the TIC,^{63/} they disregard the Commission's need to preserve universal service, as well as the special circumstances and high costs of rate-of-return LECs. The record in this proceeding fully justifies a Commission decision to retain the TIC at least until resolution of these universal service issues.

Nor should the costs associated with the residual TIC be spread proportionately over all transport services.^{64/} Commenters demonstrate that much of the TIC recovers transport costs.^{65/} However, the Price Cap Access Order noted as a general matter that some of the costs recovered in the TIC may be related to services other than transport.^{66/}

In light of these concerns, the Commission should continue to permit rate-of-return LECs to recover the TIC on a per-minute basis, until further consideration by a joint board resolves the underlying separations issues.^{67/}

USTA and other commenters also oppose proposals in the Notice to require rate-of-return LECs to establish several tandem-switched transport rate elements to recover various specific forms of transport costs.^{68/} Such rate elements, and associated "surrogate" rates,

^{63/} See comments of MCI at 20; AT&T at 8 n.8, citing 87 F.3d 522, 532 (D.C. Cir. 1996) ("*CompTel*").

^{64/} See Notice ¶ 72.

^{65/} See comments of HSA at 7-8; Lexcom at 20.

^{66/} See Price Cap Access Order ¶ 241.

^{67/} Separations changes may not fully resolve all TIC issues.

^{68/} These include the costs of trunk ports used to terminate dedicated trunks on the serving wire center side of the tandem switch and the costs of multiplexers associated with
(continued...)

should be optional for rate-of-return LECs. There is no evidence that, if mandatory, such rate elements would promote more efficient cost recovery, especially if "surrogate" rates are used as proposed in order to simplify administration. However, developing the actual rates for these elements would be unnecessarily costly and difficult for rate-of-return LECs.

III. OTHER REGULATORY CHANGES SHOULD REFLECT THE DIFFERENCES BETWEEN RATE-OF-RETURN LECS AND PRICE CAP LECS

A. The Broad Changes Advocated By AT&T Are Contrary To the Public Interest

As noted above, rather than addressing the issues raised in the Notice, AT&T improperly launches a broad-based attack on the levels of rates charged by rate-of-return LECs. AT&T's narrow and self-serving motivation for this attack is clear. Because AT&T openly disagrees with the requirement of the Communications Act and the Commission that IXC's nationwide rates must be averaged,^{69/} it apparently is grasping at ways to make others -- in this case the rate of-return LECs -- bear its legal obligations. Of course, AT&T has shown very little regard for universal service concerns generally, as shown by its

^{68/}(...continued)

tandem switches reassigned to the tandem switching category from the TIC. See Notice ¶¶ 67, 68.

^{69/} See comments of AT&T at i, 5-6, 9. See also section 254(g) of the Communications Act, 47 U.S.C. 254(g) (mandating nationwide averaging for interexchange services).